

# **EXHIBIT A**

[Submitting Counsel on Signature Page]

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IN RE: SOCIAL MEDIA ADOLESCENT  
ADDICTION/PERSONAL INJURY  
PRODUCTS LIABILITY LITIGATION

MDL No. 3047

Case No. 4:22-03047-YGR

### This Document Relates to:

## **JOINT REPORT ON PROPOSED DISCOVERY PLANS**

## ALL ACTIONS

Judge: Hon. Yvonne Gonzalez Rogers

Magistrate Judge: Hon. Peter H. Kang

Pursuant to the Court's Discovery Management Order No. 1, at 2 (ECF No. 503), the Parties have met and conferred and respectfully submit their positions on various aspects of a proposed discovery plan consistent with Fed. R. Civ. P. 16 and 26(f)(2)-(3):

## **I. Case Management Orders to Advance and Efficiently Manage this MDL**

#### A. Order Governing Sealing Procedures

The Court entered an Order Governing Sealing Procedures on August 1, 2023. *See* ECF No. 341.

## **B. Rule 502(d) Clawback Order**

The Court entered a Rule 502(d) Clawback Order on April 25, 2023. *See* ECF No. 248.

### **C. Protective Order**

The Court entered a Protective Order on May 22, 2023. *See* ECF No. 290. On December 14, 2023, this Court heard argument on Plaintiffs' objection to Paragraph 7.6 regarding the early

1 disclosure of experts who receive Protected Material designated as “Highly Confidential.” As  
 2 directed by the Court (*see* ECF No. 503), on December 18, 2023, the Parties re-filed their  
 3 protective order briefing as a motion to amend the protective order. *See* ECF No. 501 (Motion to  
 4 Modify Protective Order and related briefing); 502 (State Attorneys’ Generals Position  
 5 Statement); 506 (Meta’s response to State Attorneys General).

6           **D.     Order Governing Preservation of CSAM**

7           The Court entered an Order Governing Preservation of CSAM on December 12, 2023.  
 8 *See* ECF No. 475.

9           **E.     ESI Protocol**

10          The Parties are negotiating a proposed ESI Protocol to govern the identification and  
 11 production of ESI and hard copy documents. The status of the Parties’ disputes is addressed in  
 12 the Parties’ separately-filed Joint Chart of ESI Order Disputes Pursuant to Discovery  
 13 Management Order No. ECF Nos. 534, 534-1.

14           **F.     Privilege Log Protocol**

15          The Parties are negotiating a proposed protocol to govern the Parties’ privilege logs and  
 16 procedures for bringing challenges. By February 12, 2024, the Parties will submit a proposed  
 17 Privilege Log Protocol or competing protocols together with a joint letter not to exceed five (5)  
 18 pages, evenly divided between the Parties, and formatted with text at 12-point font or greater,  
 19 single-spaced with reasonable margins, and line breaks between paragraphs.

20           **G.     Deposition Protocol**

21          The Parties are negotiating a deposition protocol to govern the scheduling and taking of  
 22 depositions. By February 20, 2024, the Parties will submit a proposed deposition protocol or  
 23 competing protocols together with a joint letter not to exceed five (5) pages, evenly divided  
 24 between the Parties, and formatted with text at 12-point font or greater, single-spaced with  
 25 reasonable margins, and line breaks between paragraphs.

26           **H.     Source Code Order**

27          The Parties are meeting and conferring regarding the need for a source code order  
 28 governing the production of and/or access to source code and will raise with the Court at the

1 appropriate time.

2       **I.     Bellwether Order**

3       **Plaintiffs' Position:**

4           The Parties are negotiating a bellwether order to establish a bellwether trial selection  
5 procedure, including which specific Plaintiffs are subject to individual discovery beyond the  
6 Plaintiff Fact Sheet, to run concurrently with fact discovery. By March 1, 2024, the Parties will  
7 submit a proposed bellwether order or competing orders together with a joint letter not to exceed  
8 five (5) pages, evenly divided between the Parties, and formatted with text at 12-point font or  
9 greater, single-spaced with reasonable margins, and line breaks between paragraphs.

10       **Defendants' Position:**

11           At Judge Kuhl's direction, the Parties have begun meeting and conferring on discovery  
12 pool and bellwether selection for the JCCP Personal Injury plaintiffs. Defendants will meet and  
13 confer with the MDL Plaintiffs regarding the submission of a bellwether order for the MDL  
14 Personal Injury Plaintiffs, but believe it is premature to set a deadline at this time, before a  
15 Plaintiff Fact Sheet ("PFS") Implementation Order has even been entered in the MDL, let alone  
16 any PFS data received—a necessary prerequisite to bellwether selection. Defendants also believe  
17 this issue should be presented to Judge Gonzalez Rogers in the first instance, who will set the trial  
18 schedules in these cases.

19       **J.     User Account Identification Order, Plaintiff Fact Sheet, and Defendant Fact**  
20       **Sheet (Personal Injury Actions)**

21           On December 14, 2023, the JCCP Court entered the User Account Identification Order  
22 and the Plaintiff Fact Sheet Order for the Personal Injury actions. The Personal Injury Plaintiffs  
23 and Defendants plan to submit these orders (conformed as appropriate for the MDL) to the Court  
24 soon.

25           Defendants and the JCCP Plaintiffs are negotiating a Defendant Fact Sheet ("DFS") and  
26 an implementation order in the JCCP with respect to the Personal Injury actions. Within 10 days  
27 following entry in the JCCP, the Personal Injury Plaintiffs and Defendants will submit the DFS  
28 and implementation order (conformed as appropriate for the MDL) for this Court's consideration.

1 The Personal Injury Plaintiffs and Defendants will use MDL Centrality as the online platform for  
 2 data management of fact sheets and related documents.

3           **K. Plaintiff Fact Sheet and Defendant Fact Sheet (School District and Local**  
 4           **Government Entity Actions)**

5           Defendants and the JCCP Plaintiffs anticipate negotiating a PFS and DFS to be completed  
 6 by each School District and Local Government Entity Plaintiff and Defendant. Within 10 days  
 7 following entry in the JCCP, the School District and Local Government Entity Plaintiffs and  
 8 Defendants will submit these proposed orders (conformed as appropriate for the MDL) for this  
 9 Court's consideration.

10          **II. Discovery Plan<sup>1</sup>**

11          **A. Rule 26 Initial Disclosures**

12          **All-Plaintiffs' Position:**

13           Defendants shall provide Rule 26(a) initial disclosures to the Personal Injury and School  
 14 District and Local Government Entity (“PI/SD”) Plaintiffs on or before January 26, 2024. The  
 15 Plaintiff Fact Sheet Implementation Order shall govern the PI/SD Plaintiffs’ discovery obligations  
 16 at this time, including Rule 26(a) initial disclosures. Defendant(s) named by the State Attorneys  
 17 General and the State Attorneys General waive their right to Rule 26 Initial Disclosures vis-à-vis  
 18 one another.

19          **PI/SD Plaintiffs' Further Position:**

20           The purpose of initial disclosures under Rule 26(a)(1) is to “allow the parties to  
 21 adequately prepare their cases for trial and to avoid unfair surprise.” *Lindsay v. First La Brea,*  
 22 *LLC*, No. CV203360JFWPVCX, 2020 WL 12188179, at \*1 (C.D. Cal. Oct. 6, 2020) (quoting  
 23 *Russell v. Absolute Collection Services, Inc.*, 763 F.3d 385, 396 (4th Cir. 2014)). The PI/SD  
 24 Plaintiffs will be providing the information numerated in Rule 26(a)(1) through the Plaintiff Fact  
 25 Sheet. Defendants, however, will not be required to identify witnesses or documents relevant to

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26          <sup>1</sup> This Discovery Plan is intended to apply only to discovery of common issues. It is understood  
 27 that additional, non-duplicative fact and expert discovery may be conducted in connection with a  
 28 discovery pool and ultimately bellwether cases. The Parties will discuss what, if any,  
 supplemental fact and expert discovery is required in the context of any Bellwether Orders and  
 will seek the Court’s assistance if they are unable to reach agreement.

1 common issues as part of the Defendant Fact Sheet, which is limited to case-specific information  
 2 and does not require witness names. Although the Parties attempted to negotiate a preservation  
 3 order for over a year, at no point during those discussions were key witnesses identified. The  
 4 PI/SD Plaintiffs require this information in order to efficiently and effectively tailor subsequent  
 5 discovery and determine which witnesses need to be deposed. Defendants have had more than a  
 6 year to prepare for initial disclosures as a routine part of litigation, and any burden of doing so  
 7 now does not outweigh the importance to the ability of PI/SD Plaintiffs to proceed with targeted  
 8 and efficient discovery.

9       A disclosure of trial witnesses, while important at the appropriate juncture, will not serve  
 10 this key purpose of initial disclosures. *See Holak v. K Mart Corp.*, No. 1:12-cv-00304-AWI-MJS,  
 11 2014 U.S. Dist. LEXIS 139879, at \*12-13 (E.D. Cal. Sep. 30, 2014) (explain that late disclosure  
 12 of witnesses throws a wrench in the “smooth progression of the litigation”). Defendants’ proposal  
 13 to identify trial witnesses *2 weeks after* the close of fact discovery is plainly not an adequate  
 14 substitute. Defendants themselves acknowledge the need to depose any trial witnesses who are  
 15 disclosed, so relying solely on such a post-discovery disclosure runs the risk of reopening  
 16 discovery and thereby undermining the remaining schedule and the trial date.

17       In short, Defendants’ objection to providing initial disclosures will only result in delay  
 18 and a “go fish” exercise by Plaintiffs to guess which witnesses or documents Defendants intend to  
 19 use to support their defenses. *See also* Fed. R. Civ. P. 37(c) (disallowing a party to use  
 20 information or witnesses that it failed to provide as required by Rule 26(a) or (e) in motion  
 21 practice, at a hearing, or at trial).

22       **Defendants’ Position:**

23       Defendants have already made or will soon be making extensive initial disclosures to the  
 24 PI/SD Plaintiffs in connection with their prior negotiations regarding a potential Preservation  
 25 Order, certain Defendants’ re-production of documents previously produced to State Attorneys  
 26 General, and Defendant Fact Sheets. Indeed, certain Defendants have already produced to  
 27 Plaintiffs over 65,000 documents relevant to common issues in this case, which reflect the  
 28 identities of potential witnesses.

1           Accordingly, initial disclosures should be waived for all Parties in all three sets of cases—  
 2 not only for Plaintiffs in the PI/SD cases, as Plaintiffs propose. However, the Parties should be  
 3 required to make final disclosures of fact witnesses for trial no later than two weeks after the  
 4 close of fact discovery (or March 5, 2026, assuming entry of Defendants' Discovery Plan on  
 5 February 15, 2024). All Parties agree that any witness disclosed for trial after the close of fact  
 6 discovery must have the opportunity to be deposed by opposing Parties (if they have not already  
 7 been deposed) prior to expert rebuttal deadlines.

8           **B. Completion of Written Defensive Discovery**

9           **Plaintiffs' Position:**

10          Plaintiffs propose that by June 28, 2024, Defendants shall complete production of  
 11 documents responsive to discovery served before January 25, 2024, which production shall be  
 12 carried out on a “rolling” basis. Disputes as to certain requested information shall not be a reason  
 13 to delay production of information that is not in dispute.

14          An interim deadline to complete production of documents responsive to PI/SD Plaintiffs’  
 15 initial requests disincentives the “gotcha” gamesmanship of producing key documents near the  
 16 close of fact of discovery. These practices prevent the requesting party from timely requesting  
 17 additional key documents or adequately deposing witnesses in preparing for trial.

18          Plaintiffs’ proposed deadline of June 28, 2024 provides Defendants with five months to  
 19 make their productions, a reasonable amount of time considering the substance and nature of the  
 20 requests. Six identical sets of requests address issues that are common to all Defendants, and  
 21 focus on standard categories of documents appropriate for early discovery such as corporate  
 22 organization and finance, as well as on features and safety measures core to the allegations in this  
 23 case. The remaining, Defendant-specific RFPs are generally “go fetch” requests seeking  
 24 specifically identified documents or following up on documents already produced or facts learned  
 25 from publicly available information.

26          Given this relatively circumscribed scope and the aim of the requests to kick-start efficient  
 27 discovery, Plaintiffs submit that the proposed deadline for substantial completion of responsive  
 28 productions is eminently reasonable. Such interim deadlines serve to keep discovery on track

1 toward its ultimate completion. In contrast, Defendants' suggestion that the Parties must resolve  
 2 all objections to every one of Plaintiffs' RFPs in order to negotiate custodians and search  
 3 methodologies departs from standard practice and has no justification, particularly given the  
 4 extensive knowledge Defendants already have from Plaintiffs' allegations. It is a recipe for  
 5 delaying document production and incentivizing extended disputes. Of course, in keeping with  
 6 general practice to date and professional courtesy, Plaintiffs will consider reasonable requests for  
 7 extensions of time regarding these productions.

8           **Defendants' Position:**

9           As of the filing of this statement, the PI/SD Plaintiffs have already served a total of 609  
 10 requests for production on all Defendants, including 175 requests on Meta, 197 requests on  
 11 TikTok, 116 requests on Google and YouTube, and 121 requests on Snap. Of those, 108 requests  
 12 are identical and were served on all Defendants, with responses and objections currently due on  
 13 February 26, 2024. The PI/SD Plaintiffs have categorized those common requests into the  
 14 following issues: organization and finance, features and warnings, health and safety, user  
 15 demographics and targeting, marketing and lobbying, and student safety. Contrary to Plaintiffs'  
 16 suggestion, these requests are anything but "relatively circumscribed [in] scope"; in combination,  
 17 they demand "all documents" covering nearly every aspect of Defendants' businesses over  
 18 decades. The remaining Defendant-specific requests are also expansive, and while some demand  
 19 specific documents, many others request "all documents" and "all communications" related to  
 20 various issues potentially relevant to this litigation.

21           Plaintiffs' suggestion that Defendants should be expected to complete their production of  
 22 documents responsive to all discovery currently pending by June 28, 2024 is therefore  
 23 unreasonable. Before the Parties can even negotiate the full set of custodians and search terms to  
 24 be applied to these 609 requests, the Parties will first need sufficient time to resolve Defendants'  
 25 objections to the requests, most of which are not due to be served on the PI/SD Plaintiffs' until  
 26 February 26.<sup>2</sup> After that, Defendants will then need a considerable amount of time to search for,

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27           <sup>2</sup> Plaintiffs' response on this point is a strawman. Defendants are not suggesting that *all*  
 28 objections must be resolved before some search terms and custodians can be negotiated, and

1 collect, and review a significant volume of documents before the full set of responsive documents  
 2 can be identified. Because the PI/SD Plaintiffs' current requests implicate nearly every aspect of  
 3 Defendants' business, Defendants anticipate it will require a massive amount of machine  
 4 processing and human time to complete the document collection and review. Defendants will  
 5 also need additional time to redact for, e.g., privilege, personally identifying information, and the  
 6 Stored Communications Act.

7 For these reasons and others, it would be unreasonable and impractical to require  
 8 Defendants to complete a fulsome production under the unnecessarily truncated timeline  
 9 Plaintiffs have proposed. Defendants instead propose that all document productions, including  
 10 productions responsive to requests served before January 25, 2024, be completed on a rolling  
 11 basis by February 19, 2026 (the close of fact discovery in Defendants' proposed schedule).

### 12 C. Discovery Cut-Offs:

13 The Parties propose the following cut-offs for the close of fact and expert discovery:

14 <b>Description</b>	15 <b>Plaintiffs' Proposed</b> 16 <b>Deadline</b>	17 <b>Defendants' Proposed Deadline</b> 18 <b>(Dates Assume Entry of Plan</b> 19 <b>on February 15, 2024)</b>
20 <b>Close of Fact Discovery</b>	21                   November 15, 2024 22                   (provided no phasing)	23                   February 19, 2026
24 <b>Close of Expert Discovery</b>	25                   March 1, 2025 (provided no 26                   phasing)	27                   July 9, 2026 (20 weeks later)

### 28                   Plaintiffs' Position:

29 Plaintiffs' proposal includes a workable schedule that adheres to Rule 1's mandate to  
 30 "secure the just, speedy, and inexpensive determination of every action and proceeding." Fed. R.  
 31 Civ. P. 1. In particular, Plaintiffs' schedule should phasing not be ordered provides for fact  
 32 discovery to be complete in approximately 10 months and expert discovery completed  
 33 approximately 4 months later, which would permit the first bellwether trial to take place in 2025

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34 Defendants will be prepared to begin negotiating search terms for some of those requests after  
 35 responses are served on February 26. At that time, however, Defendants expect to have  
 36 objections to many of the other requests, and objections as to those requests must be resolved  
 37 before the Parties will be able to agree to the full set of terms and custodians.

1 or early 2026 depending on the Court's schedule.<sup>3</sup> Defendants' schedule, on the other hand,  
 2 allocates approximately 2 years to fact discovery and another 5 months to expert discovery.  
 3 Under Defendants' schedule, trial would not take place until the *end of 2026 or 2027*.<sup>4</sup> Such an  
 4 extremely lengthy schedule is unwarranted. Discovery is underway: Defendants Meta, TikTok,  
 5 and Snap already made initial productions of documents, which were part of the months long  
 6 inquiry by the Attorneys General into the exact conduct by Defendants at issue in this case; many  
 7 additional documents and information are publicly available through congressional testimony by  
 8 whistleblowers with respect to Meta; the Parties have spent over a year developing the foundation  
 9 (e.g., 502(d) Order, ESI Protocol, Protective Order) required for discovery;<sup>5</sup> and the PI/SD  
 10 Plaintiffs have already propounded initial sets of requests for production of documents and  
 11 anticipate serving notices of deposition pursuant to Rule 30(b)(6) shortly.

12 **Defendants' Position:**

13 Defendants propose a general fact discovery cutoff of February 19, 2026 (105 weeks after  
 14 entry of a Discovery Plan if entered on February 15, 2024). In light of the extensive document  
 15 discovery already served on Defendants (as explained above), and the unknown volume of  
 16 additional written discovery that Plaintiffs may still serve, it would be unreasonable for all fact  
 17 discovery on four Defendants in these sprawling cases to be completed within the timeframe  
 18 suggested by Plaintiffs. Furthermore, concluding Defendant fact discovery this year would be  
 19 asymmetrical with later-commenced bellwether discovery.

20 Defendants propose a non-general causation expert discovery cut-off that is 20 weeks  
 21 after Defendants' proposed fact-discovery cutoff. Under Plaintiffs' proposed deadline, expert  
 22 discovery would be completed 15 weeks after the close of fact discovery. Defendants believe that  
 23 5 additional weeks are needed to ensure all Parties have sufficient time to serve their reports and

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24 <sup>3</sup> It bears mentioning that Plaintiffs' schedule in the event that the Court does not order phasing of  
 25 general causation is 2 months shorter than Defendants' proposed schedule for general causation  
 discovery only.

26 <sup>4</sup> As this Court is aware, discovery in this matter is linked to the pending JCCP. Under California  
 27 Code of Civil Procedure § 583.310 an action must be brought to trial in 5 years after it is  
 commenced against the defendants, making the JCCP's trial deadline December 2027. Any delay  
 in Defendants' proposed schedule would jeopardize the 5 year trial date mandate.

28 <sup>5</sup> The Parties have agreed to interim deadlines within the next few months to complete any  
 additional orders needed for discovery to proceed smoothly.

1 depose all experts that may be identified in this case.

2 Contrary to Plaintiffs' suggestion, Defendants are not proposing any "phasing" of  
 3 discovery in connection with their general causation staging proposal (or otherwise). Defendants  
 4 have been clear that they are not seeking to stay or limit discovery as Plaintiffs contend. Instead,  
 5 Defendants seek an earlier and separate resolution of Rule 702 challenges to Plaintiffs' general  
 6 causation experts, with sufficient time for Plaintiffs to take whatever fact discovery they feel may  
 7 bear on that issue.<sup>6</sup>

8           **D. Supplemental Expert Discovery Plan.**

9           By March 7, 2024, the Parties shall submit a supplemental expert discovery plan and  
 10 proposed case management order for expert reports and depositions.

11                                 \*           \*           \*

12           For the convenience of the Court, the Parties include below a chart showing the proposed  
 13 dates identified above to the extent Judge Gonzalez Rogers does not order the prioritization of  
 14 general causation. The Parties' alternative proposed schedules, should Judge Gonzalez Rogers  
 15 order the prioritization of general causation, are stated in Section III below.

Description	Plaintiffs' Proposed Deadline	Defendants' Proposed Deadline (Dates Assume Entry of Plan on February 15, 2024)
Defendants' Rule 26 Initial Disclosures	January 26, 2024	Initial disclosures should be waived for all Parties, with a deadline of March 5, 2026 (two weeks after the close of fact discovery) for the Parties to make their final disclosure of fact witnesses for trial
Privilege Log Protocol	February 12, 2024	February 12, 2024
Deposition Protocol	February 20, 2024	February 20, 2024

26           <sup>6</sup> Defendants' proposed schedule would not "jeopardize the 5 year trial date mandate" in  
 27 California state court, as Plaintiffs assert. The five-year limitations period for bringing actions to  
 28 trial in California state court does not include the time during which there is a complete stay of all  
 proceedings, Cal. Code. Civ. P. § 583.340(b), *Brunsv. E-Com. Exch., Inc.*, 51 Cal. 4th 717, 730  
 (2011), which the Court issued last February, *see* Feb. 10, 2023 Minute Order; Feb. 17 Minute  
 Order.

Description	Plaintiffs' Proposed Deadline	Defendants' Proposed Deadline (Dates Assume Entry of Plan on February 15, 2024)
Personal Injury Bellwether Order	March 1, 2024	Defendants will meet and confer with Plaintiffs regarding the submission of a bellwether order to Judge Gonzalez Rogers, but believe that it is premature to set a deadline for the submission of that order at this time
Supplemental Expert Discovery Plan	March 7, 2024	March 7, 2024
Completion of Production of Documents responsive to Requests served by January 25, 2024	June 28, 2024	February 19, 2026 (fact discovery cut-off)
Close of Fact Discovery	November 15, 2024	February 19, 2026
Close of Expert Discovery	March 1, 2025	July 9, 2026

The deadlines and other provisions set forth in the Court's prior scheduling orders remain in effect. *See ECF No. 503 (Discovery Management Order No. 1).*

### **III. Alternative Discovery Schedules Should Judge Gonzalez Rogers Grant Defendants' Request Relating to General Causation**

On December 13, 2023, the Court granted Defendants leave to file letter briefs on strategies to facilitate early resolution of the issue of general causation relative to the Personal Injury Plaintiffs' Master Complaint. *See ECF No. 479 (Case Management Order No. 7) at 3.* Pursuant to Case Management Order No. 7 (ECF No. 479), on January 15, 2024, the Personal Injury Plaintiffs and Defendants filed opening letter briefs on their respective positions (*see ECF Nos. 536 and 537*), and on January 19, 2024, they filed their rebuttal letter briefs.

#### **Plaintiffs' Position:**

Defendants' request to prioritize or phase general causation should be denied for the reasons articulated in Plaintiffs' letter brief to Judge Gonzalez Rogers filed on January 15, 2024

(ECF No. 537) and rebuttal letter brief to be filed on January 19, 2024.

Should Judge Gonzalez Rogers order prioritization of general causation, Plaintiffs propose the following schedule:<sup>7</sup>

Description	Deadline
Parties to serve expert reports related to general causation	December 2, 2024
Parties to serve rebuttal experts reports related to general causation	January 17, 2025
Close of Expert Discovery on general causation	March 3, 2025
Close of Fact Discovery	June 6, 2025
Parties to serve remaining expert reports (including case specific)	July 18, 2025
Parties to serve rebuttal experts reports on remaining issues (including case specific)	August 15, 2025
Close of Expert Discovery	September 12, 2025

Should the Court phase general causation discovery, Plaintiffs' alternative schedule includes approximately 3 months after the general causation deadline for additional fact discovery, and thereafter approximately 3 months for non-causation liability expert discovery and case specific expert discovery. This alternative schedule provides additional time compared to Plaintiffs' proposed schedule in Section II above, due to the inefficiencies introduced by phasing (see Pls' position on phasing at ECF No. 537), which would entail the Parties conducting fact

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<sup>7</sup> Plaintiffs' objected to Defendants including the joint chart below because it does not accurately reflect Plaintiffs' position. Defendants refused to remove it from this submission.

1 discovery while simultaneously conducting expert discovery, briefing and hearings regarding  
 2 general causation. But it would still be ten months shorter than Defendants' overall schedule.  
 3

4 Given the coordination between this action and the JCCP, Plaintiffs also propose  
 5 simultaneous expert reports, as is common practice in California state court. *See Cal. Civ. Proc.*  
 6 Code § 2034.210. Should the Court not agree to simultaneous expert reports, Plaintiffs propose  
 7 they produce their general causation expert reports on December 2, 2024, and Defendants  
 8 produce their general causation expert reports on January 13, 2025. Plaintiffs also object to  
 9 Defendants deposing Plaintiffs' experts prior Defendants serving their expert reports. This is not  
 10 common practice and would unfairly disadvantage Plaintiffs' experts.

10 **Defendants' Position:**

11 Defendants have asked Judge Gonzalez Rogers to enter an order in the Personal Injury  
 12 cases that prioritizes the deadlines for the Parties' disclosure of experts on general causation, and  
 13 the filing and adjudication of Rule 702 motions concerning the admissibility of Plaintiffs' general  
 14 causation experts' testimony. Defendants' request should be granted for the reasons articulated in  
 15 Defendants' letter brief to Judge Gonzalez Rogers filed on January 15, 2024 (ECF No. 536) and  
 16 rebuttal letter brief to be filed on January 19, 2024.

17 To the extent Judge Gonzales Rogers prioritizes the deadlines for the Parties' disclosure of  
 18 experts on general causation as Defendants have proposed, Defendants propose the following  
 19 deadlines related to general causation experts, which can be slated into Defendants' overall  
 20 proposed Discovery Plan without modification:

<b>Description</b>	<b>Deadline (Dates Assume Entry of Plan on February 15, 2024)</b>
Plaintiffs serve expert reports related to general causation	January 9, 2025
Deadline to depose Plaintiffs' general causation experts	February 20, 2025
Defendants serve expert reports related to general causation	March 20, 2025
Deadline to depose Defendants' general causation	May 1, 2025

<b>Description</b>	<b>Deadline (Dates Assume Entry of Plan on February 15, 2024)</b>
experts	
General causation expert discovery closed <sup>8</sup>	May 1, 2025
Plaintiffs serve remaining expert reports	March 19, 2026
Defendants serve remaining expert reports	April 30, 2026
Deadline to depose Defendants' remaining experts	May 28, 2026
Expert discovery closed	July 9, 2026

Because Defendants are not seeking a stay of discovery, their proposal prioritizing resolution of challenges to Plaintiffs' general causation experts does not prejudice Plaintiffs' ability to proceed in litigating and taking discovery of Defendants. It similarly permits taking discovery of Plaintiffs.

Defendants' staging proposal does not introduce "inefficiencies," as Plaintiffs assert. To the contrary, deciding earlier the case-wide issue of whether Plaintiffs can introduce reliable expert testimony to meet their burden of proof on general causation will promote the efficient resolution or narrowing of this MDL, as explained in Defendants' letter-briefing. Plaintiffs fail to explain how "conducting fact discovery while simultaneously conducting expert discovery, briefing and hearings regarding general causation" would introduce inefficiencies, when all of that discovery and briefing and hearings will occur regardless of whether general causation is staged for earlier resolution; Defendants' proposal, if accepted, would merely advance the deadlines for expert reports and Rule 702 motions on this one issue, which otherwise would simply be resolved at a later point in time.

Plaintiffs' proposal to serve expert reports simultaneously would also be highly inefficient. Plaintiffs bear the burden of proving general causation, and Defendants' expert reports will necessarily be responsive to the reports served by Plaintiffs' experts.

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<sup>8</sup> If Judge Gonzalez Rogers permits early Rule 702 challenges to Plaintiffs' general causation experts, the Parties would submit Rule 702 motions within a reasonable time after the close of general causation expert discovery.

1 Defendants do not believe that Party discovery is necessary for Plaintiffs to prepare their  
 2 general causation expert reports, but Defendants' proposed timing would allow Plaintiffs to  
 3 conduct any such targeted discovery they believe they need for such experts. In making this  
 4 proposal, Defendants do not represent or commit to being able to complete additional discovery  
 5 before the proposed deadline for Plaintiffs to disclose general causation expert reports.

6 For the convenience of the Court, Defendants include below a chart showing the proposed  
 7 dates identified above to the extent general causation staging is ordered.<sup>9</sup>

Description	Defendants' Proposed Deadline (Dates Assume Entry of Plan on February 15, 2024)	Plaintiffs' Proposed Deadline
Plaintiffs serve expert reports related to general causation	January 9, 2025	December 2, 2024
Deadline to depose Plaintiffs' general causation experts	February 20, 2025	N/A
Defendants serve expert reports related to general causation	March 20, 2025	December 2, 2024 (if simultaneous) January 13, 2025 (if not simultaneous)
Deadline to depose Defendants' general causation experts	May 1, 2025	N/A
Deadline to serve rebuttal expert reports related to general causation	N/A	January 17, 2025 (if simultaneous)
General causation expert discovery closed	May 1, 2025	March 3, 2025
Close of fact discovery	February 19, 2026	June 6, 2025
Plaintiffs serve remaining expert reports	March 19, 2026	July 18, 2025

27 <sup>9</sup> Plaintiffs objected to including this chart jointly, so Defendants included it in their section.  
 28 Plaintiffs did not identify any inaccuracies in the chart.

1	Defendants serve remaining expert reports	April 30, 2026	July 18, 2025 (simultaneous)
2	Deadline to depose Defendants' remaining experts	May 28, 2026	N/A
3	Deadline to serve rebuttal expert reports	N/A	August 15, 2025 (if simultaneous)
4	Expert discovery closed	July 9, 2026	September 12, 2025

#### IV. Limitation or Modifications to Discovery.

##### A. Interrogatories

###### Plaintiffs' Position:

Unless otherwise agreed by the parties, the PI/SD Plaintiffs may serve no more than fifty (50) interrogatories on each Defendant, and the States Attorneys General may serve no more than twenty-five (25) interrogatories on each Defendant named by the State Attorneys General, including discrete subparts. Leave to serve additional interrogatories may be granted to the extent consistent with Rule 26(b)(1) and (2). The Bellwether Order shall govern the limitations as to the number and scope of interrogatories Defendants may collectively serve on bellwether plaintiffs. Defendant(s) named by the State Attorneys General may serve no more than twenty-five (25) interrogatories, including discrete subparts, on the State Attorneys General as a whole.

Plaintiffs submit that these limits are reasonable in a case of this complexity where there are multiple groups of Plaintiffs with overlapping but distinct allegations and different claims, and with different representation. The Parties agree that the Bellwether Order shall govern the limitations as to the number and scope of interrogatories Defendants may collectively serve on bellwether plaintiffs beyond the Plaintiff Fact Sheet.

###### Defendants' Position:

To enhance the efficiencies these proceedings were created to address, including in coordination with the JCCP, all three sets of Plaintiffs in this MDL—the (1) Personal Injury Plaintiffs, (2) Local Government Entity Plaintiffs, and (3) State AG Plaintiffs—as well as the

JCCP plaintiffs should be required to coordinate defensive discovery. That is particularly so where their various complaints substantially overlap in terms of the factual allegations and issues presented (even if their formal causes of action may differ).

Defendants propose that Plaintiffs as a group (including the JCCP plaintiffs) be limited to no more than forty (40) interrogatories on each Defendant. Any Defendants named in State AG cases would be limited to serving the same number of interrogatories (no more than forty (40)) on each State AG Plaintiff.<sup>10</sup>

Defendants agree that Bellwether Orders, to the extent entered, shall govern the limitations as to the number and scope of interrogatories Defendants may collectively serve on the PI/SD Plaintiffs related to a discovery pool and ultimately bellwether cases.

For the avoidance of doubt, limitations on discovery for each “Defendant” as used in Defendants’ position statements herein shall be defined such that related corporate entities and any employees of those corporate entities who are named individually in any MDL member case are a single Defendant. “State Attorney General Plaintiff” includes state employees and state agencies outside of the State Attorney General’s office.

The Parties will further meet and confer about the scope and any limitations on third-party discovery.

#### **Snap and YouTube’s Position:**

YouTube and Snap agree that setting reasonable limits on written discovery is appropriate in this proceeding, and agree that Plaintiffs should coordinate discovery among themselves to streamline and avoid duplication. But the parties have not yet had sufficient opportunity to fully assess and confer as to what specific limits are reasonable and appropriate in this case, including the applicability of Rule 26’s proportionality principle. Moreover, YouTube and Snap’s view is that this Plan should be focused on the overall structure and schedule for various discovery components in this matter. For these reasons, YouTube and Snap respectfully request that the parties be directed to further meet and confer as to particular limitations on written discovery

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<sup>10</sup> Meta, which is the only Defendant currently named in State AG cases, anticipates that each State AG Plaintiff would be served with substantially the same forty (40) interrogatories.

1 before any dispute is presented for resolution. In all events, YouTube and Snap reserve the right  
 2 to argue that discovery limitations be calibrated to be proportional to the claims and defenses as  
 3 asserted against them specifically.

4 If the Court is inclined to set limits now, YouTube and Snap believe that the maximum  
 5 limits proposed by Defendants are more appropriate than those proposed by Plaintiffs for the  
 6 reasons set forth herein, and that the parties can meet and confer on whether a lower number  
 7 would be appropriate for any particular Party.

8       **B. Requests for Admission**

9       **Plaintiffs' Position:**

10 RFAs are not limited by the Rules of Civil Procedure or in the routine practice of complex  
 11 litigation. They generally impose little burden and can serve as important tools to narrow areas of  
 12 disputes, establish uncontested facts, and guide thoughtful discovery. “Rule 36 serves two  
 13 vital purposes, both of which are designed to reduce trial time. . . . [F]irst to facilitate proof with  
 14 respect to issues that cannot be eliminated from the case, and secondly, to narrow the issues by  
 15 eliminating those that can be.” Advisory committee’s notes to 1970 amendment of Fed. R. Civ. P.  
 16 36; *see also Leonard v. Stemtech Int’l Inc.*, 834 F.3d 376, 403 n.26 (3d Cir. 2016) (“Rule 36  
 17 provides a tool to streamline the proof of contested facts.”).

18 Defendants’ request that RFAs be limited departs from established norms in complex  
 19 litigation and is impractical. Plaintiffs intend to be thoughtful and targeted in their RFAs in the  
 20 context of this complex case, but if the Court decides upon Defendants’ petition that RFAs  
 21 propounded by Plaintiffs have become too voluminous or burdensome, it may reduce Defendants’  
 22 burden to respond to RFAs by identifying which ones are appropriate and warrant response *see,*  
 23 *e.g., Stokes v. Interline Brands Inc.*, 2013 WL 6056886 (N.D. Cal. Nov. 14, 2013), or by limiting  
 24 Plaintiffs’ additional RFAs at a later date in the discovery process, should the need arise.

25       **Defendants' Position:**

26 Defendants propose that Plaintiffs as a group (including the JCCP plaintiffs) be limited to  
 27 no more than twenty-five (25) requests for admission on each Defendant (not including requests  
 28 for admission related to the authentication of documents for trial, which could be served at a later

1 time), with the ability to serve additional requests for admission for good cause shown. Any  
 2 Defendants named in State AG cases would be limited to serving the same number of requests for  
 3 admission (no more than twenty-five (25)) on each State AG Plaintiff.<sup>11</sup>

4 Defendants agree that Bellwether Orders, to the extent entered, shall govern the  
 5 limitations as to the number and scope of requests for admission Defendants may collectively  
 6 serve on the PI/SD Plaintiffs related to a discovery pool and ultimately the bellwether cases.

7 **C. Number of Depositions<sup>12</sup>**

8 **1. Depositions of Defendants<sup>13</sup>**

9 **Plaintiffs' Position:**

10 The PI/SD Plaintiffs may take up to forty (40) depositions of each Defendant, and may  
 11 take up to 10 (ten) additional depositions of Defendants collectively, inclusive of current/former  
 12 employees represented and produced for deposition by a Defendant and Rule 30(b)(6)  
 13 depositions. The States Attorneys General may take up to twenty (20) depositions of each  
 14 Defendant named by the State Attorneys General, inclusive of current/former employees  
 15 represented and produced for deposition by that Defendant and Rule 30(b)(6) depositions. In the  
 16 event a witness was employed by multiple Defendants and is represented and produced for  
 17 deposition by multiple Defendants, then the deposition shall only count as a deposition regarding  
 18 the Defendant that employed the witness last-in-time. For the avoidance of doubt, a Rule 30(b)(6)  
 19 deposition notice counts as a single deposition even if multiple corporate representatives testify in  
 20 response to the Rule 30(b)(6) deposition notice.

21 Defendants propose no more than a total of 140 hours of depositions collectively for all  
 22 groups of Plaintiffs, with an additional limit of 21 hours of 30(b)(6) depositions per Defendant.  
 23 Defendants would further limit Plaintiffs collectively to 30 deponents per Defendant, and would  
 24 limit each deponent to 10 hours split amongst all Plaintiffs.

25  
 26 <sup>11</sup> Meta, which is the only Defendant currently named in State AG cases, anticipates that each  
 27 State AG Plaintiff would be served with substantially the same twenty-five (25) requests for  
 admission.

28 <sup>12</sup> The deposition limits set forth herein do not apply to expert witnesses.

<sup>13</sup> The number of depositions excludes records custodians that may be necessary for  
 authentication of business records.

1        Defendants' proposed limitations on depositions would be draconian in any MDL, and are  
 2 particularly so here given the complexity and technical aspects of this case and the multiple  
 3 categories of Plaintiffs pursuing different claims. For example, if each deposition can last only 10  
 4 hours, all Plaintiffs collectively would be entitled to only 14 depositions per Defendant.  
 5 Defendants' proposed rules are also complicated enough that tracking how they operate will be  
 6 akin to a logic game.

7        Plaintiffs oppose layering a limitation on the overall hours of depositions on top a limit on  
 8 the number of depositions. However, in addition to proposing the numerical limits above,  
 9 Plaintiffs propose a limitation of 14 hours on the record per defense witness, not to exceed 7  
 10 hours in a single day. Plaintiffs will coordinate amongst themselves to keep their questioning  
 11 within these limits and avoid repetition. Plaintiffs will propose a draft deposition protocol by the  
 12 deadline noted above, with provisions regarding these limits and other details. Plaintiffs' proposal  
 13 allows different Plaintiffs pursuing different claims on behalf of different types of clients in  
 14 different jurisdictions to have enough time to ask questions necessary to litigate their claims,  
 15 while limiting those depositions to a finite number of witnesses and hours, and ensuring that  
 16 redundant questioning is avoided.

17        **Defendants' Position:**

18        Defendants propose that Plaintiffs as a group (including the JCCP plaintiffs) may take up  
 19 to a cumulative total of one hundred and forty (140) hours (approximately twenty (20) full  
 20 deposition days) of depositions of each Defendant, inclusive of current/former employees and  
 21 Rule 30(b)(6) depositions. This cumulative allowance for each Defendant is subject to the  
 22 following additional provisions:

23            (a) each fact deposition shall be limited to no more than ten (10) hours total, with  
 24 Defendants reserving the right to seek less time for specific witnesses on a showing of good  
 25 cause;

26            (b) Plaintiffs shall be limited to no more than thirty (30) deponents per Defendant (with  
 27 the witness(es) on any individual 30(b)(6) notice counting as one (1) witness);

28            (c) Plaintiffs may take up to a cumulative total of twenty-one (21) hours (approximately

1 three (3) full deposition days) of 30(b)(6) depositions of each Defendant;

2 (d) the 140-hour allowance does not include time spent on direct or re-cross;

3 (e) one (1) minute of re-cross shall be permitted for every one (1) minute of direct  
4 examination conducted of that witness.

5 The State Attorney General Plaintiffs may only participate in the depositions of  
6 Defendants specifically named by the State Attorney General Plaintiffs.

7 **Snap and YouTube Defendants' Position:**

8 YouTube and Snap agree that setting reasonable limits on depositions—in particular, the  
9 number of depositions and the hours allotted for taking those depositions—is appropriate in this  
10 proceeding, and agree that Plaintiffs should coordinate discovery among themselves to streamline  
11 and avoid duplication. But the parties have not yet had sufficient opportunity to fully assess and  
12 confer as to what specific limits are reasonable and appropriate in this case, including the  
13 applicability of Rule 26's proportionality principle. Moreover, YouTube and Snap's view is that  
14 this Plan should be focused on the overall structure and schedule for various discovery  
15 components in this matter. For these reasons, YouTube and Snap respectfully request that the  
16 parties be directed to further meet and confer as to particular limitations on depositions in  
17 connection with the forthcoming deposition protocol before any dispute is presented for  
18 resolution. In all events, YouTube and Snap reserve the right to argue that discovery limitations  
19 be calibrated to be proportional to the claims and defenses as asserted against them specifically.  
20 If the Court is inclined to set limits now, YouTube and Snap believe that the maximum limits  
21 proposed by Defendants are more appropriate than those proposed by Plaintiffs for the reasons set  
22 forth herein, and that the parties can meet and confer on whether a lower number would be  
23 appropriate for any particular Party.

24 **2. Depositions of Plaintiffs**

25 **Plaintiffs' Position:**

26 The Bellwether Order shall govern the limitations as to the number and scope of  
27 depositions Defendants may collectively take related to the bellwether cases. Defendants may not  
28

1 take depositions of the States Attorneys General.  
 2

3           **Defendants' Position:**

4           Defendants agree that Bellwether Orders, to the extent entered, shall govern the  
 5 limitations as to the number and scope of depositions Defendants may collectively take of the  
 6 PI/SD Plaintiffs related to a discovery pool and ultimately the bellwether cases.

7           Defendants named by the State Attorneys General may collectively take no more than a  
 8 cumulative total of one hundred and forty (140) hours (approximately twenty (20) full deposition  
 9 days) of each State Attorney General Plaintiff.<sup>14</sup> This cumulative allowance is subject to the  
 10 following additional provisions for each State Attorney General Plaintiff:

- 11           (a) each fact deposition shall be limited to no more than seven (7) hours total;<sup>15</sup>
- 12           (b) Defendants shall be limited to no more than thirty (30) deponents per State Attorney  
 13 General Plaintiff (with the witness(es) on any individual 30(b)(6) notice counting as one (1)  
 14 witness);
- 15           (c) Defendants may take up to a cumulative total of twenty-one (21) hours (approximately  
 16 three (3) full deposition days) of 30(b)(6) depositions of each State Attorney General Plaintiff;
- 17           (d) the 140-hour allowance does not include time spent on direct or re-cross;
- 18           (e) one (1) minute of re-cross shall be permitted for every one (1) minute of direct  
 19 examination conducted of that witness.

20           **3. Rule 30(b)(6) Depositions**

21           **Plaintiffs' Position:**

22           The Parties may notice and take multiple Rule 30(b)(6) depositions. The Party noticing a  
 23 Rule 30(b)(6) deposition (the “Noticing Party”) may limit a Rule 30(b)(6) deposition notice to a  
 24

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25           <sup>14</sup> The State Attorney General Plaintiffs informed Defendants less than an hour before midnight  
 26 the day this filing was due that they were retracting their prior proposal that Defendants be  
 27 afforded twenty depositions of the State Attorneys General, and instead taking the position that  
 Defendants could take no depositions of the State Attorneys General at all. Given the timing,  
 Defendants did not have an opportunity to confer on or prepare a response to this remarkable  
 proposal before this filing was due, and so will address it at the DMC.

28           <sup>15</sup> Assumes that the Meta Defendants remain the only Defendant group named by the State  
 Attorney General Plaintiffs; otherwise, the ten (10)-hour limit set forth above for depositions  
 taken by multiple Parties would apply.

1 discrete subject matter category and notice topics concerning that category (without prejudice to  
 2 serving additional Rule 30(b)(6) notices as the discovery period continues.).  
 3

4 **Defendants' Position:**

5 The Parties may notice and take multiple Rule 30(b)(6) depositions, subject to the  
 6 limitations set forth above.

7 As set forth above, Defendants propose that Plaintiffs as a group (including the JCCP  
 8 plaintiffs) may take up to a cumulative total of twenty-one (21) hours (approximately three (3)  
 9 full deposition days) of 30(b)(6) depositions of each Defendant, regardless of how many notices  
 their topics may be split across, or the number of witnesses designated for each topic.  
 10

11 Defendants propose that any Defendants named by the State Attorney General Plaintiffs  
 12 may take up to a cumulative total of twenty-one (21) hours (approximately three (3) full  
 13 deposition days) of 30(b)(6) depositions of each State Attorney General Plaintiff, regardless of  
 14 how many notices their topics may be split across, or the number of witnesses designated for each  
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16 DATED: January 19, 2024

17 Respectfully submitted,

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1                   **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

2                   Dated: \_\_\_\_\_, 2024

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4                   PETER H. KANG  
5                   United States Magistrate Judge

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## **ATTESTATION**

I, Lexi J. Hazam, hereby attest, pursuant to N.D. Cal. Civil L.R. 5-1, that the concurrence to the filing of this document has been obtained from each signatory hereto.

**DATED:** January 19, 2024

/s/ Lexi J. Hazam

LEXI J. HAZAM

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